

AMENDED IN ASSEMBLY APRIL 1, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 899**

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**Introduced by ~~Committee on Housing and Community Development~~  
(~~Mendoza (Chair), Harkey (Vice Chair), De La Torre, Eng,~~  
~~Fletcher, Ma, and Saldana)~~Assembly Member Torres  
(Coauthor: Assembly Member Eng)**

February 26, 2009

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An act to amend Section ~~1363~~ of 1365.2.5 of, and to add Section 1363.005 to, the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 899, as amended, ~~Committee on Housing and Community Development Torres~~. Common interest ~~developments~~. *developments: disclosures.*

*The Davis-Stirling Common Interest Development Act provides for the creation and regulation of common interest developments. Under existing law, a common interest development is managed by an association pursuant to the provisions of the governing documents of the development. Existing law requires an association to provide specified disclosure documents to its members.*

*This bill would require an association to distribute annually to its members a Disclosure Documents Index, as specified.*

*Existing law requires an association to distribute to its members a pro forma operating budget for each fiscal year, as specified. Existing law also requires an association to distribute, with the pro forma operating budget, an Assessment and Reserve Funding Disclosure Summary containing specified information regarding the association's assessments and reserves.*

*This bill would require that Assessment and Reserve Funding Disclosure Summary to include a specified statement regarding the interest rate earned on reserve funds and the assumed inflation rate applied to major component repair and replacement costs.*

~~The Davis-Stirling Common Interest Development Act requires a common interest development to be managed by an association that may be incorporated or unincorporated, and imposes certain requirements on such an association. That law provides that, whenever 2 or more associations have consolidated any of their functions under a joint neighborhood association or similar organization, members of each participating association shall be entitled to certain rights relating to attendance and participation at meetings and access to the joint association's records.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 *SECTION 1. Section 1363.005 is added to the Civil Code, to*  
2 *read:*

3 *1363.005. The association shall annually distribute to its*  
4 *members the following Disclosure Documents Index:*

<i>Disclosure Documents Index</i>		
<i>Item</i>	<i>Description</i>	<i>Reference Code</i>
1	<i>Assessment and Reserve Funding Summary</i>	<i>Civil Code Sec. 1365</i>
2	<i>Pro Forma Operating Budget</i>	<i>Civil Code Sec. 1365(a)</i>
3	<i>Pro Forma Operating Budget Summary</i>	<i>Civil Code Sec. 1365(a)</i>
4	<i>Assessment Collection Policy</i>	<i>Civil Code Sec. 1365(e) and 1367.1(a)</i>
5	<i>Notice Assessments and Foreclosure</i>	<i>Civil Code Sec. 1365.1</i>
6	<i>Collection Rights and Duties</i>	<i>Civil Code Sec. 1365.1</i>
7	<i>Insurance Coverage Summary</i>	<i>Civil Code Sec. 1365(f)</i>

8	<i>Board Minutes Access</i>	<i>Civil Code Sec. 1363.05(e)</i>
9	<i>Alternative Dispute Resolution (ADR) Rights</i>	<i>Civil Code Sec. 1369.59</i>
10	<i>Internal Dispute Resolution (IDR) Rights</i>	<i>Civil Code Sec. 1363.850</i>
11	<i>Architectural Changes Notice</i>	<i>Civil Code Sec. 1378</i>
12	<i>Secondary Address Notification Request</i>	<i>Civil Code Sec. 1367.1(k)</i>
13	<i>Monetary Penalties Schedule</i>	<i>Civil Code Sec. 1363(g)</i>
14	<i>Annual Report Right to Receive</i>	<i>Corp. Code Sec. 8321</i> <i>Civil Code Sec. 1365(c)</i>
15	<i>Reserve Funding Plan Right to Receive</i>	<i>Civil Code Sec. 1365(b)</i>

SEC. 2. Section 1365.2.5 of the Civil Code is amended to read:  
1365.2.5. (a) The disclosures required by this article with regard to an association or a property shall be summarized on the following form:

#### Assessment and Reserve Funding Disclosure Summary

(1) The current regular assessment per ownership interest is \$\_\_\_\_\_ per \_\_\_\_\_. Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page \_\_\_\_\_ of the attached summary.

(2) Additional regular or special assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the board and/or members:

Date assessment will be due:	Amount per ownership interest per month or year (If assessments are variable, see note immediately below):	Purpose of the assessment:
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	Total:	

Note: If assessments vary by the size or type of ownership interest, the assessment applicable to this ownership interest may be found on page \_\_\_\_ of the attached report.

(3) Based upon the most recent reserve study and other information available to the board of directors, will currently projected reserve account balances be sufficient at the end of each year to meet the association’s obligation for repair and/or replacement of major components during the next 30 years?

Yes \_\_\_\_\_ No \_\_\_\_\_

(4) If the answer to (3) is no, what additional assessments or other contributions to reserves would be necessary to ensure that sufficient reserve funds will be available each year during the next 30 years that have not yet been approved by the board or the members?

Approximate date assessment will be due:	Amount per ownership interest per month or year:
	Total:

(5) All major components are included in the reserve study and are included in its calculations.

(6) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 1365.2.5, the estimated amount required in the reserve fund at the end of the current fiscal year is \$\_\_\_\_, based in whole or in part on the last reserve study or update prepared by \_\_\_\_ as of \_\_\_\_ (month), \_\_\_\_ (year). The projected reserve fund cash balance at the end of the current fiscal year is \$\_\_\_\_, resulting in reserves being \_\_\_\_ percent funded at this date. If an alternate, but generally accepted, method of calculation is

1 also used, the required reserve amount is \$\_\_\_\_. (See attached  
2 explanation)

3  
4 (7) Based on the method of calculation in paragraph (4) of  
5 subdivision (b) of Section 1365.2.5 of the Civil Code, the estimated  
6 amount required in the reserve fund at the end of each of the next  
7 five budget years is \$\_\_\_\_, and the projected reserve fund cash  
8 balance in each of those years, taking into account only assessments  
9 already approved and other known revenues, is \$\_\_\_\_, leaving the  
10 reserve at \_\_\_\_ percent funding. If the reserve funding plan  
11 approved by the association is implemented, the projected reserve  
12 fund cash balance in each of those years will be \$\_\_\_\_, leaving the  
13 reserve at \_\_\_\_ percent funding.  
14

15 Note: The financial representations set forth in this summary are based on the  
16 best estimates of the preparer at that time. The estimates are subject to change.  
17 *At the time this summary was prepared, the assumed long-term before-tax*  
18 *interest rate earned on reserve funds was \_\_\_\_ percent per annum, and the*  
19 *assumed long-term inflation rate to be applied to major component repair and*  
20 *replacement costs was \_\_\_\_ percent per annum.*  
21

22 (b) For the purposes of preparing a summary pursuant to this  
23 section:

24 (1) “Estimated remaining useful life” means the time reasonably  
25 calculated to remain before a major component will require  
26 replacement.

27 (2) “Major component” has the meaning used in Section 1365.5.  
28 Components with an estimated remaining useful life of more than  
29 30 years may be included in a study as a capital asset or disregarded  
30 from the reserve calculation, so long as the decision is revealed in  
31 the reserve study report and reported in the Assessment and  
32 Reserve Funding Disclosure Summary.

33 (3) The form set out in subdivision (a) shall accompany each  
34 pro forma operating budget or summary thereof that is delivered  
35 pursuant to this article. The form may be supplemented or modified  
36 to clarify the information delivered, so long as the minimum  
37 information set out in subdivision (a) is provided.

38 (4) For the purpose of the report and summary, the amount of  
39 reserves needed to be accumulated for a component at a given time  
40 shall be computed as the current cost of replacement or repair

1 multiplied by the number of years the component has been in  
2 service divided by the useful life of the component. This shall not  
3 be construed to require the board to fund reserves in accordance  
4 with this calculation.

5 SECTION 1. ~~Section 1363 of the Civil Code is amended to~~  
6 ~~read:~~

7 ~~1363. (a) A common interest development shall be managed~~  
8 ~~by an association that may be incorporated or unincorporated. The~~  
9 ~~association may be referred to as a community association.~~

10 ~~(b) An association, whether incorporated or unincorporated,~~  
11 ~~shall prepare a budget pursuant to Section 1365 and disclose~~  
12 ~~information, if requested, in accordance with Section 1368.~~

13 ~~(c) Unless the governing documents provide otherwise, and~~  
14 ~~regardless of whether the association is incorporated or~~  
15 ~~unincorporated, the association may exercise the powers granted~~  
16 ~~to a nonprofit mutual benefit corporation, as enumerated in Section~~  
17 ~~7140 of the Corporations Code, except that an unincorporated~~  
18 ~~association may not adopt or use a corporate seal or issue~~  
19 ~~membership certificates in accordance with Section 7313 of the~~  
20 ~~Corporations Code.~~

21 ~~The association, whether incorporated or unincorporated, may~~  
22 ~~exercise the powers granted to an association in this title.~~

23 ~~(d) Meetings of the membership of the association shall be~~  
24 ~~conducted in accordance with a recognized system of parliamentary~~  
25 ~~procedure or any parliamentary procedures the association may~~  
26 ~~adopt.~~

27 ~~(e) Notwithstanding any other provision of law, notice of~~  
28 ~~meetings of the members shall specify those matters the board~~  
29 ~~intends to present for action by the members, but, except as~~  
30 ~~otherwise provided by law, any proper matter may be presented~~  
31 ~~at the meeting for action.~~

32 ~~(f) Members of the association shall have access to association~~  
33 ~~records, including accounting books and records and membership~~  
34 ~~lists, in accordance with Article 3 (commencing with Section 8330)~~  
35 ~~of Chapter 13 of Part 3 of Division 2 of Title 1 of the Corporations~~  
36 ~~Code. The members of the association shall have the same access~~  
37 ~~to the operating rules of the association as they have to the~~  
38 ~~accounting books and records of the association.~~

39 ~~(g) If an association adopts or has adopted a policy imposing~~  
40 ~~any monetary penalty, including any fee, on any association~~

1 member for a violation of the governing documents or rules of the  
2 association, including any monetary penalty relating to the  
3 activities of a guest or invitee of a member, the board of directors  
4 shall adopt and distribute to each member, by personal delivery  
5 or first-class mail, a schedule of the monetary penalties that may  
6 be assessed for those violations, which shall be in accordance with  
7 authorization for member discipline contained in the governing  
8 documents. The board of directors shall not be required to distribute  
9 any additional schedules of monetary penalties unless there are  
10 changes from the schedule that was adopted and distributed to the  
11 members pursuant to this subdivision.

12 (h) ~~When the board of directors is to meet to consider or impose~~  
13 ~~discipline upon a member, the board shall notify the member in~~  
14 ~~writing, by either personal delivery or first-class mail, at least 10~~  
15 ~~days prior to the meeting. The notification shall contain, at a~~  
16 ~~minimum, the date, time, and place of the meeting, the nature of~~  
17 ~~the alleged violation for which a member may be disciplined, and~~  
18 ~~a statement that the member has a right to attend and may address~~  
19 ~~the board at the meeting. The board of directors of the association~~  
20 ~~shall meet in executive session if requested by the member being~~  
21 ~~disciplined.~~

22 ~~If the board imposes discipline on a member, the board shall~~  
23 ~~provide the member a written notification of the disciplinary action,~~  
24 ~~by either personal delivery or first-class mail, within 15 days~~  
25 ~~following the action. A disciplinary action shall not be effective~~  
26 ~~against a member unless the board fulfills the requirements of this~~  
27 ~~subdivision.~~

28 (i) ~~Whenever two or more associations have consolidated any~~  
29 ~~of their functions under a joint neighborhood association or similar~~  
30 ~~organization, the following shall apply with respect to members~~  
31 ~~of each participating association:~~

32 (1) ~~The members shall be entitled to attend all meetings of the~~  
33 ~~joint association other than executive sessions.~~

34 (2) ~~The members shall be given reasonable opportunity for~~  
35 ~~participation in those meetings.~~

36 (3) ~~The members shall be entitled to the same access to the joint~~  
37 ~~association's records as they are to the participating association's~~  
38 ~~records.~~

39 (j) ~~Nothing in this section shall be construed to create, expand,~~  
40 ~~or reduce the authority of the board of directors of an association~~

- 1 ~~to impose monetary penalties on an association member for a~~
- 2 ~~violation of the governing documents or rules of the association.~~

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